

OD-8

ORDER SHEET
WPO No.235 of 2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

KISHAN JOSHI
Versus
THE COMMISSIONER, KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date : 21st March, 2024.

Appearance:
Mr. Gaurav Purkayastha, Adv.
Mr. Sobhan Kumar Pathak, Adv.
...for Petitioner.

Mr. Gurudas Mitra, Adv.
Mr. Dwijadas Chakraborty, Adv.
...for KMC.

Mr. Bikash Ranjan Bhattacharya, Sr. Adv.
Mr. Jaydeb Kumar Das, Adv.
..for Respondent No.6.

Mr. Debjit Mukherjee, Adv.
Ms. Susmita Chatterjee, Adv.
...for the State.

The Court:-The petitioner complains of unauthorized construction at premises no. 26, Tarachand Dutta Street, Ward No. 44, Borough -V of the Kolkata Municipal Corporation.

Specific allegation is that the construction is being made without maintaining the mandatory side open spaces.

Complaint lodged against such unauthorized construction is pending consideration.

Learned senior counsel representing the private respondent submits that the construction is being made strictly in accordance with the plan

sanctioned. The allegation of the unauthorized construction has been denied.

Learned advocate representing the Kolkata Municipal Corporation relies upon the instruction forwarded by the engineers of the concerned Borough signed on 19.03.2024. It appears therefrom that the department caused an inspection to ascertain whether any unauthorized construction is being made.

From the instruction forwarded by the engineers, it does not appear that the inspection was conducted upon prior notice to the parties. There is also no mention in the instruction as to whether the mandatory side open spaces have been maintained at the time of raising construction.

In view of the above, the instant writ petition is disposed of by directing the Executive Engineer (Civil)/Building, Borough-V, Kolkata Municipal Corporation to cause spot inspection upon prior notice to all the necessary parties to ascertain as to whether the mandatory side open spaces have been maintained at the time of raising construction.

If it appears that the mandatory side open spaces as required under law has not been maintained, necessary remedial steps shall be taken. Steps shall be taken in the matter at the earliest, but positively within a period of eight weeks from the date of communication of this order.

The writ petition stands disposed of.

Affidavit of service filed in Court today be taken on record.

Report filed by the Officer-in-Charge, Jorasanko Police Station be retained with the record.

Instruction forwarded by the engineers of the Corporation be retained with the record.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all legal formalities.

(AMRITA SINHA, J.)

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